

**DEPARTMENT OF STATE REVENUE
REVENUE RULING ST 98-05**

June 2, 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

STATEMENT OF FACTS

The Taxpayer is a manufacturer of personal and homecare products. The products are sold throughout the United States to independent distributors, who both wholesale to other Taxpayer distributors and retail to consumers. The Taxpayer has an agreement with Indiana to act as the collection agent on all sales of the Taxpayer's products sold by distributors in Indiana.

The Taxpayer manufactures and sells two products which are in question, both bottled waters. In contacting the Department of Revenue the Taxpayer included sales literature describing the two products. Product A is described as caffeinated water and Product B is described as fruit flavored water.

ISSUE

Sales/Use Tax - Sale of Water

Authority: IC 6-2.5-2-1, IC 6-2.5-5-20

Are Product A and Product B subject to Indiana's sales and use tax?

DISCUSSION

Indiana Code Section 6-2.5-2-1 imposes a state gross retail tax on retail transactions made in Indiana, subject to certain exceptions. However, Indiana Code 6-2.5-5-20(a) exempts sales of "food for human consumption" from Indiana's sales tax, but IC 6-2.5-5-20(c) defines what is not included in "food for human consumption." IC 6-2.5-5-20(c)(6) states that "water (except natural spring water), mineral water, carbonated water and ice", are not "food for human consumption" under IC 6-2.5-5-20(a) and consequently are subject to Indiana's sales tax. IC 6-2.5-5-20(b)(13) exempts *only* natural spring water from the state's sales tax.

The Department considers natural spring water to mean all water that come from a spring and has no artificial or manufactured additives, such a method of identification lends itself to easy application by retailers. Therefore, the label must include the words "natural spring water" in order for the water to be exempt under the natural spring water exemption. It should be noted that the brand name need not contain the words "natural spring water", it is only necessary that the words or phrase appear somewhere on the label. All water (except natural spring water) including mineral, distilled, bottled, carbonated, soda, and *flavored* is taxable.

RULING

Since neither Product A or Product B are natural spring water they are subject to Indiana's sales tax under IC 6-2.5-2-1.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if the change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, changes in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.